

Representative McCollum

MCC-017-020

POLYMET MINING

During the hearing, you testified that you have encouraged your regional administrators to work more cooperatively with states, and that Region 5 Administrator undertook so-called ‘action days’ where EPA staff met face to face with state officials on issues such as permits. You mentioned two other instances in Region 5 where such meetings occurred, once with Wisconsin officials, and once on a Concentrated Animal Feeding Operation (CAFO) in Ohio.

Question: Please provide additional details regarding these two meetings, including dates, who was present in those meetings, and brief descriptions regarding the topics that were covered.

Answer: Face-to-face meetings and conversations with state regulatory partners is a common practice at EPA. Complex issues can benefit from these more personal interactions. Written back and forth communication can lead to delays and misunderstanding, hence the action days concept was encouraged to promote frequent and active conversations with staff experts and better serve the agency’s partners.

Two examples are the proposed Wisconsin Concentrated Animal Feeding Operation (CAFO) transfer, and the pending Ohio CAFO program transfer. These two examples demonstrate how earlier, and more frequent interactions and collaboration can help avoid delays. In the instance of the Ohio transfer, Region 5 actively reengaged to bring about a resolution to a matter that has gone unresolved for some time. In fact, it was the focus of a recent Inspector General inquiry that looked at the lengthy review process. To avoid similar delays, the Region encouraged very early and frequent communication with Wisconsin to avoid the sort of delays that occurred in Ohio. What follows is a summary of those two efforts:

1. Wisconsin CAFO Program Transfer: On October 17, 2018, EPA Region 5 hosted a meeting on Wisconsin CAFO program transfer with representatives from Wisconsin Department of Natural Resources (WDNR) and Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP) at Region 5’s Chicago office. Topics discussed included: National Pollutant Discharge Elimination System (NPDES) program transfers generally; division of responsibilities between WDNR and WDATCP; NPDES program components that WDATCP likely does not need to assume; required statutory authorities that WDATCP does need to assume; regulatory authorities required for a CAFO program; and follow-up questions, next steps and project assignments.
2. Ohio CAFO Program Transfer: On March 21, 2019, EPA Region 5 and EPA Office of Water attended a meeting in Reynoldsburg, Ohio, on the Ohio CAFO programs transfer with representatives from the Ohio Department of Agriculture (ODA), Ohio Attorney General (OAG), and Ohio Environmental Protection Agency (Ohio EPA). Topics discussed included: remaining areas of clarification needed for EPA approval, identification of a multi-agency team to resolve remaining issues, timeline, and next steps.

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There were other interactions that occurred with the States prior to these larger meetings that included phone calls and smaller meetings where we discussed related topics. For example, EPA Region 5 had face-to-face meetings with WDNR and WDATCP in Chicago on June 22 and September 5, 2018 and a conference call on October 4, 2018. For the Ohio CAFO transfer, EPA Region 5 had a call with ODA, Ohio EPA and Ohio DNR on November 26, 2018. The desired outcome is better environmental protection through better and more thorough coordination and communication with our state regulatory partners.

Question: Did former EPA Administrator Scott Pruitt similarly encourage regional administrators to work more cooperatively with states?

Answer: Working cooperatively with states was a high priority for the former Administrator as demonstrated by the inclusion of a specific goal in the FY 2018 – FY 2022 Agency Strategic Plan, Goal 2 – Cooperative Federalism, and the establishment of a Senior Advisor position in the Administrator’s Office dedicated to State and Regional affairs.

Question: Have any other regional administrators undertaken activities similar to the Ms. Stepp’s ‘action days,’ namely, as you described, having face-to-face meetings to discuss issues or share concerns with permits, regulations, or oversight, in lieu of sending letters, as has been standard practice in the past? If so, please provide a list of all similar such meetings, including date(s), who was present at those meetings, and brief descriptions regarding the topics that were covered.

EPA has posted on its website two “Messages to EPA Employees” related to transparency, issued while you were Acting Administrator. The first one was released shortly after you were named Acting Administrator, and second one was a follow-up memo from November where you reminded agency staff of their obligations under the Federal Records Act. I saw these memos as a welcome departure from the practices of your predecessor, who many have accused of trying to subvert the FOIA process by minimizing the generation of written records.

Answer: See below.

Question: Has Ms. Stepp or any other regional administrator carried out any ‘action days’ or similar activities since you issued your November memo?

Answer: Regional Administrators hold frequent, scheduled and as needed, formal and informal, face-to-face meetings, calls, and other personal interactions with state and local officials at various levels. It is an integral part of an EPA regional office’s work. These interactions augment interactions regions have with the states through written correspondence.

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Examples include Regional Administrators hosting senior leadership meetings with state commissioners to discuss issues of mutual interest and concern and to ensure a successful partnership. Regions hold these meetings monthly and quarterly to discuss a wide range of issues, including shared priorities, ways to strengthen relationships, regulatory/enforcement/policy concerns, etc. Further, Regional Administrators regularly meet, have phone conversations, and correspond with state commissioners and state program counterparts to discuss on-going regulatory actions, permitting, enforcement, Superfund sites, emergency response, grants, and oversight. These frequent interactions ensure that EPA and its state partners are working in close coordination and collaboration to protect public health and the environment.